IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

Crl.MC.No. 2563 of 2007()

CRIME NO.468/07 OF CHANGANASSERY POLICE STATION

PETITIONER:

MARIYAMMA FRANCIES, W/O. FRANCIS,
MANALIL HOUSE, CHANGANASSERY, KOTTAYAM DISTRICT.

BY ADV. SRI.GEORGEKUTTY MATHEW

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. THE ASSISTANT ENGINEER,
P.W.D. ROAD SECTION, CHANGANASSERY.

BY P.P. SRI.M.S. BREEZ.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 17/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 2563 OF 2007

Dated this the 17th day of August, 2007

ORDER

Against the petitioner, a crime has been registered on the basis of a complaint received from the revenue authorities. The crime has been registered under Secs.379 and 447 of the IPC. The crux of the allegations is that the petitioner had trespassed into an item of property which has been acquired by the State, the petitioner being the former owner of that property. He, after acquisition of the property and taking over of the possession by the State, had allegedly trespassed into the property and had cut and removed the trees. This, in short, is the allegation. It is prayed that the F.I.R. may be quashed.

2. The powers under Sec.482 of the Cr.P.C. are wide in its sweep and certainly in an appropriate case an F.I.R. can be quashed. But, what is the ground? The only contention is

that the petitioner had no contumacious and culpable state of mind. At the moment and with the available inputs, it is not possible for this Court to enter an authentic finding on that aspect. I am certainly not satisfied that the F.I.R. registered can be quashed.

3. Needless to say, it shall be open to the petitioner to place before the Investigating Officer all the relevant materials to instil in the mind of the Investigating Officer the satisfaction that the petitioner had no contumacious or culpable intention. The learned counsel for the petitioner airs an apprehension that the Investigating Officer may, without considering all the relevant circumstances, proceed to arrest the petitioner - allegedly a woman aged 60 years. No police official can resort to the power of arrest without alert application of mind. Needless to say, all relevant circumstances will have to be considered by the police officer before, if at all, he decides to arrest the petitioner. The petitioner can appear before the learned Magistrate and seek bail.

4. With the above observations, this Crl.M.C. is dismissed.

Sd/-

Nan **(R. BASANT, JUDGE)**

//true copy// P.S. to Judge